



General Assembly

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Agenda item 33

Prevention of armed conflict

Letter dated 24 January 2011 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

I have the honour to request your kind assistance in circulating the present letter and its annexes: a letter addressed to you by the President of the Republic of Abkhazia, H.E. Sergey Bagapsh (annex I); and a letter addressed to you by the Minister for Foreign Affairs of the Republic of South Ossetia, H.E. Murat Jioev, enclosing the statement of the President of the Republic of South Ossetia, H.E. Eduard Kokoity (annex II), as a document of the General Assembly under agenda item 33.

An identical letter has been sent to the President of the Security Council (S/2011/33).

(Signed) Vitaly **Churkin**



Annex I to the letter dated 24 January 2011 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

[Original: Russian]

We highly appreciate the efforts undertaken by the United Nations, over the period 1992-2008, to resolve the Georgian-Abkhaz conflict. The Georgian-Abkhaz negotiations were held under the auspices of the United Nations and the Organization's involvement was key in securing the signing of the basic agreements between Georgia and Abkhazia on the non-use of force, in particular, the Moscow Agreement of 14 May 1994 and the Gagra Protocol of 25 May 1998.

Georgia's aggression, however, and its unilateral violation of the peace agreements, such as the incursion by Georgian troops into the Kodori Gorge in Abkhazia in August 2006, caused an escalation of tensions which then erupted into the war in South Ossetia in August 2008.

Over the entire negotiating process, Abkhazia has unswervingly insisted that, in the settlement of conflicts, there is no alternative to peaceful political dialogue. We also urge Georgia to refrain from the resumption of hostilities in the air, on the water and on land.

Georgia's aggressive policies, its large-scale military actions and its operations against Abkhazia, alongside Tbilisi's flouting of earlier agreements signed under the auspices of the United Nations and with the involvement of the Organization for Security and Cooperation in Europe (OSCE), render us sceptical of the oral "affirmations of peace" by the Georgian leaders.

In this context, Abkhazia once again reiterates its commitment to the preservation of peace and stability in the region and reaffirms its position, enunciated in the Geneva discussions, that it aims to reach agreements not to use force and to launch a process of developing equal and good-neighbourly relations between Abkhazia and Georgia, based on the universally accepted rules of international discourse.

We also deem it important to stress that the Russian Federation, as Abkhazia's strategic ally, shall remain the guarantor of security and the non-resumption of hostilities between Georgia and Abkhazia.

Over the entire history of the conflict, Abkhazia has never instigated any aggression against its neighbour States and has no intention to do so in the future either. We officially declare that, in its relations with Georgia, the Republic of Abkhazia intends to adhere firmly to the universally recognized principle prohibiting the use or threat of force, as stipulated by international law.

At the same time, mindful of past experience, and also the persistent and aggressive de facto policy applied by Georgia against Abkhazia, we reserve the right of self-defence in the air, on the water and on land in the event of an armed attack or other acts of military aggression by Georgia.

In this connection, Abkhazia calls on the United Nations to promote the strengthening between the two sides of their reciprocal commitments not to use force and to refrain from any aggression, and to launch a process of building a new

system of security safeguards, designed to ensure the long-term stable and peaceful co-existence of two States: Abkhazia and Georgia.

(Signed) Sergey Bagapsh
President of the Republic of Abkhazia

Sukhum, 14 December 2010

Annex II to the letter dated 24 January 2011 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General

[Original: Russian]

I have the honour to transmit herewith a statement by the President of the Republic of South Ossetia (see enclosure).

We would be grateful if you could have the statement circulated among the States Members of the United Nations.

(Signed) Murat Jioev
Minister for Foreign Affairs of the Republic of South Ossetia

Tskhinval, 6 December 2010

Enclosure

Republic of South Ossetia

Statement by the President of the Republic of South Ossetia, Eduard Kokoity

In his latest address to the European Parliament, Saakashvili said that he was ostensibly refraining from the use of force to restore the territorial integrity of his country and would not attack either the Russian "occupation forces", or their "proxies". Translated into plain language, this statement quite simply means that Saakashvili is promising not to use force against South Ossetia.

Statements couched in such terms are hard to take seriously. All the more so since it is high time that the world understood that Saakashvili's pronouncements are completely bogus. As a rule, they are followed by armed attacks on our country. That was the case in 2004 and the same happened again in August 2008. At that time, our own restraint in response to the sustained military provocations and our attempts to find a compromise solution through negotiation failed to ward off a barbaric attack by Georgia.

It is telling that the Georgian forces unleashed their hurricane bombardment of Tskhinval and their massive offensive a mere four hours after Saakashvili's solemn announcement of a ceasefire. Georgia's repeated attacks on our country — in 1920, 1989-1992 and 2004 — resulted in enormous loss of life. Only the prompt evacuation of the civilian population and intervention by Russia prevented tragedy on an even bloodier scale in 2008.

Over the time that has elapsed since the repulsed attack by Georgian forces on South Ossetia in 2008, Georgia has managed not only to restore, but even to augment, the strike capacity of its army. His aggression and crimes against humanity having gone unpunished, Saakashvili continues to plot his military revenge. As things stand today, the Russian forces stationed in the territory of our country on the basis of a bilateral intergovernmental agreement represent the principal guarantee of South Ossetia's security.

Accordingly, we continue to insist on written, legally binding undertakings not to use force, preferably accompanied by international assurances, something that has now been under discussion at the Geneva talks for more than two years. Only under those circumstances can we count on Georgia's adherence to the universally recognized practice of civilized relations. For its part, South Ossetia stands ready to give such undertakings.

At the same time, in response to the Georgian statement, I, as head of the Republic of South Ossetia, do officially declare: our State will not use force against Georgia, its people, its territory or its armed forces. There should be no doubt in anyone's mind about the peaceful nature of our aspirations. We want to build a free and independent South Ossetia, which would live in peace with its neighbours and in which Ossetians, Georgians, Russians and citizens of other nationalities would live peacefully side by side.

It is our earnest hope that one day our State too will be able to rely to the same extent on the assurances of our southern neighbours. In the meantime we reserve the

right, as necessary, of self-defence in accordance with the Charter of the United Nations and, if our worst fears are confirmed, the aggressor will once again be repulsed as he deserves.

(Signed) Eduard **Kokoity**
President of the Republic of South Ossetia
Tskhinval, 6 December 2010

**General Assembly**

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Agenda item 53

**Comprehensive review of the whole question
of peacekeeping operations in all their aspects**

**Letter dated 19 January 2011 from the Permanent Representatives
of Australia and Uruguay to the United Nations addressed to the
President of the General Assembly**

We have the honour to write to you about the third workshop on the protection of civilians in United Nations peacekeeping operations, co-hosted by the Permanent Missions of Australia and Uruguay to the United Nations in New York on 6 December 2010.

We consider that this was a very good opportunity to encourage an open, broad and constructive dialogue among Member States, peacekeepers from the field and the Secretariat about the strategic framework for comprehensive mission strategies on the protection of civilians, which is currently under development, and the additional steps that the Secretariat is taking to improve the implementation of mandates to protect civilians in the field.

A summary of the workshop discussions is attached (see annex). It describes briefly the main concerns, challenges and understandings raised by the various participants in this event.

We hope that this document will be helpful in discussions on these issues that could eventually take place in the General Assembly or its specialized body, the Special Committee on Peacekeeping Operations.

We request that this letter and its annex be circulated to all Member States as a document of the General Assembly, under agenda item 53.

(Signed) Gary Quinlan

(Signed) José Luis Cancela

Annex to the letter dated 19 January 2011 from the Permanent Representatives of Australia and Uruguay to the United Nations addressed to the President of the General Assembly

Third workshop on the protection of civilians in United Nations peacekeeping operations, New York, 6 December 2010

1. The Permanent Missions of Australia and Uruguay to the United Nations co-hosted a third workshop on the protection of civilians in United Nations peacekeeping operations on 6 December 2010.
2. The aim of the workshop was to provide a forum for an exchange of views between Member States, peacekeepers from the field and the Secretariat on the strategic framework for mission strategies, which is currently under development, and the additional steps the Department of Peacekeeping Operations and the Department of Field Support are taking to improve the implementation of mandates to protect civilians in the field. The workshop built on two earlier workshops on the protection of civilians in United Nations peacekeeping operations co-hosted by the Permanent Missions of Australia and Uruguay to the United Nations in January 2009 (see A/63/722) and January 2010 (see A/64/721), respectively.

Background

3. Drawing on the frank dialogue among Member States at the second workshop, in January 2010 (see A/64/721), the Special Committee on Peacekeeping Operations requested the Secretariat to develop a strategic framework containing elements and parameters for mission-specific strategies to guide senior mission leadership in elaborating a comprehensive protection strategy aligned with the mission's concept of operations (A/64/19, para. 149). This language demonstrated widespread support for peacekeeping missions with protection of civilians mandates to develop comprehensive strategies.
4. In parallel with the General Assembly, the Security Council welcomed the initiative to develop a strategic framework. In its open debate on the protection of civilians in armed conflict in November 2010, the Security Council adopted a Presidential Statement (S/PRST/2010/25) that welcomed the proposals, conclusions and recommendations on the protection of civilians in the 2010 report of the Special Committee (A/64/19), including the progress in elaborating a conceptual framework.
5. Against the backdrop of this normative progress, the workshop in December 2010 heard from peacekeepers in the field and the Secretariat. The workshop was divided into two sessions to facilitate discussion between the panellists, Member States, the Secretariat and non-governmental organizations. A list of the panellists is attached to the present document (see attachment). A summary of the key issues discussed in the sessions follows.

Session one

Perspectives from the field

6. The first session focused on the humanitarian and military perspectives of peacekeepers in the field from two peacekeeping missions with mandates to protect

civilians: the African Union-United Nations Hybrid Operation in Darfur and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo. The presentations of the panellists demonstrated that peacekeeping missions faced many of the same challenges in trying to implement mandates to protect civilians.

7. One of the challenges that peacekeeping missions were facing was addressing the protection challenges across a wide area, with limits on the resources available to do so. In many cases, peacekeeping missions had not deployed to mandated troop levels, and did not have the required enablers, such as helicopters. While this was an unfortunate reality and one that the United Nations continued to try to address with Member States, there was general agreement that the United Nations needed to do a better job of articulating what peacekeeping missions would be able to do with the resources they already had when it came to protecting civilians. Without a clear indication of the resources required to implement tasks relating to the protection of civilians, it was difficult for missions to manage expectations as to what could and could not be achieved by the peacekeeping mission. The ability of peacekeeping missions to respond to emerging crises that threatened civilians would also be enhanced by improved information-gathering processes and early warning systems.

8. Another area viewed as difficult was ensuring that the peacekeeping mission engaged all stakeholders, particularly the host Government and local populations, in their planning and strategies to implement mandates to protect civilians. Peacekeeping missions frequently had several different tasks within their mandates, which might include complex initiatives such as disarmament, demobilization and reintegration and security sector reform. These tasks frequently required interaction with local security forces to effectively build up the ability of the host Government to protect civilians; however, this interaction also required careful scrutiny, as those same Government forces might have been guilty of harming civilians. Temporary fixes and creating dependencies were traps that needed to be avoided.

9. The panellists agreed that different actors needed to work effectively together and to have a clear understanding of their roles and responsibilities on the ground. In some instances, where humanitarian actors were trying to deliver humanitarian assistance, this could be hampered by the absence of a military presence to provide a safe and secure environment. At the same time, the lack of a civilian presence in many deployed military and police peacekeeping units hampered efforts to engage with the local population. The lack of a female presence in some of these units made it particularly difficult to engage with women and children, who were often the most exposed and vulnerable. In isolated locations it was often hard to place a local woman within a unit and tell peacekeepers to trust her, despite this function being vital. Better education efforts were needed.

10. Although many welcomed the efforts under way to improve the ability of peacekeeping missions to protect civilians on the ground, there was agreement that it remained unfamiliar business for many troops. Training centres understood traditional peacekeeping training, but did not know how to teach protection of civilians, which was often about having a better understanding of the cultural environment that peacekeepers were deploying into. It was too late to tell peacekeepers on arrival in the mission how they should act: this needed to occur before arrival in the mission and it also needed to be mission specific. Training needed to keep pace with the times.

11. An early working draft of the strategic framework had been made available to peacekeeping missions in January 2010. The purpose of the strategy was to ensure that peacekeeping missions were working from the same page, and, according to the panellists from the field, it provided a good template to start with.

Session two

Strategic framework for comprehensive mission strategies

12. The second session provided a forum for discussion of the content of the draft strategic framework to guide mission leadership in the development of comprehensive mission strategies to implement mandates to protect civilians. Several of the challenges that had been identified in the first session were discussed in the context of how the strategic framework might be used to address those challenges.

13. It was made clear by the Secretariat that mission-wide strategies and a comprehensive United Nations approach was necessary to improve the ability of peacekeeping missions to protect civilians on the ground. The draft framework was being developed following a request from the Special Committee in its 2010 report (A/64/19). It was one of the first operational tools being developed for the protection of civilians and provided advice on key issues for consideration when missions were planning for the protection of civilians. The framework was a tool for missions to develop their own strategies and to ensure a more common approach to the protection of civilians in United Nations peacekeeping missions. This was particularly important to ensure there was no duplication by different actors and that there were clear and well-established priorities among mission leaderships. The framework was divided into three parts: part one articulated the purpose, scope and key considerations prior to drafting the strategy; part two provided an annotated template for comprehensive strategies to protect civilians; and part three included an annex with an implementation matrix and further references. Risk assessment was the focus of the strategy. Other key elements included analysis of early warning and crisis response, analysis of mission resources and capabilities, roles and responsibilities, coordination mechanisms, monitoring and reporting (including lessons learned) and expectation management.

14. How the strategy would give guidance on managing issues of consent was considered to be of significant importance. This issue was primarily viewed as one of managing the relationship between the host Government, local authorities and the peacekeeping mission. It was critical that peacekeeping missions understood that they had a responsibility to consult and to understand what other actors were doing. The framework would provide a guide of how to discuss issues with local authorities and how to ensure ongoing cooperation with the host authority. However, those details would need to be articulated by each mission, rather than a United Nations-wide approach. It was also suggested that consent was much broader and included management of the relationship between troop- and police-contributing countries participating in peacekeeping missions and the United Nations. Limited discussion of robust peacekeeping within the Special Committee and what the use of force to implement protection of civilians mandates required meant there was still a lack of clarity about what it meant to use force to implement a mandate to protect civilians.

15. Expectation management was viewed as another critical issue. Expectations needed to be managed for several different stakeholders: the local community where a peacekeeping mission was engaged; the host Government, which was relying on the peacekeeping mission to support its ability to protect its civilians; the international community, which had expectations of the United Nations; and the troop- and police-contributing countries, which had expectations about what they should be able to do. Those expectations needed to be clearly articulated and managed by both the Security Council, which needed to articulate its expectations of what the peacekeeping mission was intended to achieve, and the Secretariat. At the mission level, better risk assessments were also needed to identify the limitations of missions on the ground and risk mitigation strategies were required to manage them.

16. The framework was only one strand of work that the Secretariat was undertaking in response to the directions of the Special Committee. Work was also under way to develop training modules related to the protection of civilians, develop a resource and capabilities matrix, examine planning processes for the protection of civilians, and further capability development. There was broad agreement among participants that further efforts were required to improve the predeployment and in-mission training of peacekeepers on the protection of civilians, particularly for uniformed components. Although many peacekeepers understood the concept of the protection of civilians, they did not know how to achieve it. It was important for them to understand different scenarios they might face in the field and how to respond to them. This was something the Secretariat was working on. Ongoing evaluation of the training processes was also viewed as critical.

Conclusion

17. The strategic framework was viewed as an important step to ensure peacekeeping missions were planning for, considering and implementing mandates to protect civilians. There was broad agreement that the discussion on the protection of civilians had made considerable progress within the past two years: it was no longer about whether the protection of civilians should be a priority of peacekeeping missions, but how to implement it as a priority. The dialogue of all three workshops to date had assisted in the organic evolution of that discussion. It was clear from the discussions that the United Nations was moving in the right direction, but that significant challenges remained and Member States would need to remain engaged with the Secretariat as it took its work forward.

Attachment

Session one

Perspectives from the field

- Chair: Gary Quinlan, Ambassador and Permanent Representative,
Permanent Mission of Australia to the United Nations
- Panellists: Oriano Micaletti, Officer-in-Charge, Humanitarian Liaison Office,
African Union-United Nations Hybrid Operation in Darfur
- Nick Peek, Chief Plans Officer, United Nations Organization
Stabilization Mission in the Democratic Republic of the Congo

Session two

Strategic framework to guide the development of comprehensive strategies

- Chair: José Luis Cancela, Ambassador and Permanent Representative,
Permanent Mission of Uruguay to the United Nations
- Panellists: Alain Le Roy, Under-Secretary-General, Department of
Peacekeeping Operations
- Izumi Nakamitsu, Director, Policy, Evaluation and Training
Division, Department of Peacekeeping Operations
- Hansjoerg Strohmeyer, Chief, Policy Development and Studies
Branch, Office for the Coordination of Humanitarian Affairs
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Security Council**

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Agenda item 34

**Protracted conflicts in the GUAM area and
their implications for international peace, security
and development**

Security Council

Sixty-sixth year

**Identical letters dated 26 January 2011 from the Permanent
Representative of Georgia to the United Nations addressed to the
Secretary-General and the President of the Security Council**

I have the honour to transmit herewith the statement of the Ministry of Foreign Affairs of Georgia concerning the deployment by Russia of the Tactical Operational Missile Complex on the occupied territories of Georgia (see annex).

I should be grateful if the present letter and its annex could be circulated as a document of the sixty-fifth session of the General Assembly, under agenda item 34, and of the Security Council.

(Signed) Alexander Lomaia
Ambassador
Permanent Representative



Annex to the identical letters dated 26 January 2011 from the Permanent Representative of Georgia to the United Nations addressed to the Secretary-General and the President of the Security Council

Statement of the Ministry of Foreign Affairs of Georgia on the deployment by Russia of the Tactical Operational Missile Complex on the occupied territories of Georgia

Based on the source of the law enforcement agencies of the Southern Federal District of the Russian Federation, Russian news agencies spread reports on 24 January 2011, according to which an additional battalion of the Tactical Operational Missile Complex "Tochka-U" with a range of 120 kilometres was deployed on the so-called military base of the Russian Federation, in the Russian-occupied Tskhinvali region of Georgia. In addition, as the Russian Ministry of Defence announced in December 2010, an artillery battalion equipped with Smerch multiple-launch rocket systems with a range of 70-90 kilometres was stationed in the vicinity of Tskhinvali.

It needs to be emphasized that it was with the use of "Tochka-U" systems that the Russian Federation completely destroyed the city of Bamut (Republic of Chechnya) and eliminated its peaceful population. The ballistic missiles of this system can be equipped with cluster warheads (consisting of 50 bomblets) and nuclear warheads.

The deployment of the Tactical Operational Missile Complex "Tochka-U" and the artillery battalion equipped with Smerch multiple-launch rocket systems poses a direct and overt threat to the peaceful population and territory of Georgia. By taking such actions, Russia follows through with its aggressive policy directed towards the destruction of the Georgian statehood and elimination of the peaceful population of Georgia, as well as towards causing large-scale instability in the Caucasus and throughout the Black Sea region.

The deployment of the offensive rocket systems in the occupied region points clearly to the Russian Federation's plans to launch open military aggression against Georgia.

The Ministry of Foreign Affairs of Georgia demands strongly that the international community, international organizations and partner countries adopt active and effective measures in order to pressure Russia to end its aggressive policy against Georgia, fulfil its international commitments, including the 12 August 2008 ceasefire agreement, undertake a commitment on the non-use of force and ensure the full and immediate de-occupation of the Georgian territory.

Tbilisi, 24 January 2011



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Agenda item 53

**Comprehensive review of the whole question of peacekeeping
operations in all their aspects**

Prosecution of crimes against deployed peacekeepers

Report of the Secretary-General

Summary

The present report reviews the processes involved in the investigation and prosecution of crimes committed against deployed United Nations peacekeepers, as requested in the 2010 report of the Special Committee on Peacekeeping Operations.



1. The present report is submitted in response to the request made in paragraph 38 of the report of the 2010 substantive session of the Special Committee on Peacekeeping Operations (A/64/19). In particular, the Special Committee requested me "to prepare and submit to the General Assembly before the 2011 substantive session of the Special Committee for its consideration a comprehensive report on all the processes involved in the investigation and prosecution of crimes committed against deployed United Nations peacekeepers, including advice on the feasibility of applying the United Nations investigative mechanism, provided for in a revised model memorandum of understanding endorsed by the General Assembly in resolution 61/267 B, with respect to such crimes".

2. At the outset, I wish to point out that the United Nations itself is not in a position to bring charges against the alleged or suspected perpetrators of crimes committed against its peacekeepers, nor is it in a position to prosecute them. The Organization relies on Member States to fulfil their obligations under the relevant international legal instruments mentioned below to exercise their jurisdiction to investigate such crimes and prosecute the perpetrators thereof in accordance with their national laws.

3. For instance, by concluding a status-of-forces agreement (A/45/594) with the United Nations, host Governments undertake an obligation to "ensure the prosecution of persons subject to its criminal jurisdiction who are accused of acts in relation to the United Nations peacekeeping operation or its members which, if committed in relation to the forces of the Government, would have rendered such acts liable to prosecution".

4. Pursuant to the Convention on the Safety of United Nations and Associated Personnel of 1994, States parties are, *inter alia*, required to make certain crimes against United Nations and associated personnel punishable by appropriate penalties, to establish their jurisdiction over such crimes and to prosecute or extradite the alleged offenders. In accordance with Security Council resolution 1502 (2003) and the resolutions adopted by the General Assembly annually since 2002 on the safety and security of humanitarian personnel and protection of United Nations personnel, I have, in recent years, routinely sought, and almost without exception obtained, the inclusion of the key provisions of the Convention (as enumerated in those resolutions), as well as the above-mentioned clause from the model status-of-force agreement in status-of-forces agreements and status-of-mission agreements.

5. In accordance with the Rome Statute of the International Criminal Court,¹ the definition of "war crimes" includes "intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict". While States parties to the Rome Statute have primary jurisdiction to investigate and prosecute such war crimes, the International Criminal Court may investigate or prosecute such crimes where the State concerned is unwilling or genuinely unable to do so, provided that the conditions for the exercise of its jurisdiction are met.

6. Finally, I would recall that the General Assembly, in its resolution 61/267 B, welcomed the report of the Special Committee on Peacekeeping Operations on its

¹ United Nations, *Treaty Series*, vol. 2187, No. 38544, article 8, para. 2 (b) (iii).

2007 resumed session (A/61/19 (Part III)) and endorsed the recommendation contained in paragraph 3 thereof by virtue of which it requested me to incorporate certain amendments to the model memorandum of understanding contained in chapter 9 of the "Manual on Policies and Procedures Concerning the Reimbursement and Control of Contingent-Owned Equipment of Troop/Police Contributors Participating in Peacekeeping Missions (COE Manual)". Clearly, there is a distinction between a United Nations internal investigation of misconduct by peacekeeping personnel and the national criminal investigation and prosecution of crimes or other offences committed against deployed United Nations peacekeepers. With respect to the provisions of the model memorandum of understanding, I therefore wish to point out, by way of example, that the amendment on investigation contained in article 7 quater deals with acts of misconduct or serious misconduct committed by a member of a national contingent serving as a peacekeeper. Similarly, the amendment on the exercise of jurisdiction set out in Article 7 quinquies refers to crimes or offences that might be committed by military members and any civilian members subject to the national military law of a national contingent.

7. In conclusion, I would like to reaffirm that the United Nations, in the interest of justice and to ensure that those who seek to bring harm to its peacekeepers are held accountable for their crimes, will cooperate with and provide every possible assistance to the competent national authorities investigating or prosecuting any crimes committed against deployed United Nations peacekeepers. In a manner consistent with its rights and obligations under the Convention on the Privileges and Immunities of the United Nations, the United Nations will provide information it deems relevant about the crime arising from any internal investigation or board of inquiry it may have conducted and may also facilitate witness or victim testimony to assist the Member State concerned in fulfilling its obligation to carry out the necessary investigation or prosecution.